



*Town of Walpole  
Commonwealth of Massachusetts  
Zoning Board of Appeals*

Matthew Zuker, Chairman  
James S. DeCelle, Vice Chairman  
Craig W. Hiltz, Clerk  
Mary Jane Coffey, Member  
Susanne Murphy, Member  
Timothy C. Foley, Associate Member

October 26, 2016

**DECISION - BOARD OF APPEALS CASE NO. 17-16**

**APPLICANT:  
CARROLL ADVERTISING COMPANY, INC.**

**LOCATION OF PROPERTY INVOLVED:**

Route 1 (no street address) and shown on the Assessors Map as Lot No. 53-31, Highway Business Zone and Water Resource Protection Overlay District Area 3.

**APPLICATION FOR:**

A **Special Permit** under Section 9.3.A & 9.3.C of the Zoning By-Laws to relocate and reconstruct an existing billboard.

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On October 12, 2016 a Public Hearing was opened and the continued without discussion until October 21, 2016 in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a decision as to the granting of a **Special Permit** to Carroll Advertising Company, Inc.

The following members were present and voting for each hearing:

Matthew Zuker, Chairman  
James S. DeCelle, Vice Chairman  
Craig W. Hiltz, Clerk  
Mary Jane Coffey, Member  
Timothy C. Foley, Member

Suzanne Murphy recused herself from the hearing.

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The property in question contains an existing pre-existing non-conforming billboard, which is non-conforming due to its size and use (non-accessory sign). The property is located within the Highway Business Zoning District along Route 1. The applicant seeks necessary approvals to relocate and reconstruct the existing billboard closer to Route 1 with digital faces.

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A motion was made by Mary Jane Coffey, seconded by Matthew Zuker, on behalf of the applicant to grant a **Special Permit** under Sections 9.3.A and 9.3C of the Zoning By-Laws to allow the existing non-conforming billboard to be relocated, reconstructed, and converted to digital.

The vote was **(5-0-0) in favor** (Zuker, DeCelle, Hiltz, Coffey and Foley voting), therefore the application for a **Special Permit** is hereby **granted, subject to the following conditions:**

#### CONDITIONS:

1. The billboard relocation shall be in accordance with the plan submitted with the application entitled “Billboard Site Plan for – GHG WDCD LLC, US Route 1 & Hilltop Drive, Map 53-Lot 31 – Walpole, MA” dated September 6, 2016 and prepared by Alpha Surveying and Engineering Inc.
2. The digital faces of the billboard shall be operated in accordance with applicable state regulations.
3. With the exception the non-conformities addressed by this Special Permit (i.e., size, height, and the non-accessory use), the billboard and the proposed digital faces shall be constructed and operated in accordance with all applicable provisions of the Zoning Bylaw.

#### REASONS FOR DECISION:

Pursuant to Section 9-3.A and 9-3.C of the Zoning By-Laws, the applicant seeks a **Special Permit** from the Board to allow an existing non-conforming billboard to be relocated, reconstructed and converted to digital. The Board finds the following:

- The billboard is located in a commercial area along Route 1.
- The billboard will be no higher above grade than the existing billboard.
- The billboard faces will be no larger than the existing billboard (two 14’x48’ billboard faces).
- The billboard will be at least 10 feet from the street right-of-way, meeting the setback requirements for a free standing sign under the Zoning Bylaw (section 7-5.C.4).
- The closer proximity to Route 1 will reduce driver distraction and will increase the distance to the nearby residential apartments.
- The immediate abutter (Cook) stated that they believe the new location and configuration to be safer than the existing.
- The conversion to digital will be a benefit to the community due to the potential for free advertising for local events, amber alerts, etc...
- With the conditions noted herein, the location, setback, and design will not be detrimental to the area by reason of lighting, appearance or impact on neighboring uses.
- With the conditions noted herein, the proposed relocation of the existing non-conforming billboard closer to Route 1 and the associated reconstruction and conversion to digital will not be substantially more detrimental to the neighborhood than the existing non-conforming billboard. On the contrary, the availability of the billboard faces for periodic municipal and emergency use provides a public benefit.

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**FURTHER SPECIAL PERMIT FINDINGS**

It is the finding of the Board that the applicant was able to meet the requirements of Section 2.2.B of the Zoning Bylaws, which requires that:

***(1) Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for the special permit:***

***(a) Does and shall comply with such criteria or standards as shall be set forth in in the section of this Bylaw which refers to the granting of the requested special permit;***

As discussed above, the proposed relocation and reconstruction of the billboard is not substantially more detrimental to the neighborhood than the existing non-conforming billboard, and therefore complies with Section 9-3.A & 9-3.C.

***(b) Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;***

The Board finds that the billboards do not generate traffic except for routine maintenance visits, that such traffic is extremely limited, and that this condition is therefore met.

***(c) Shall not have a number of residents, employees, customers, or visitors so as to adversely affect the immediate neighborhood;***

The Board finds that billboards do not generate visits except for routine maintenance, that such visits will not adversely affect the immediate neighborhood and that this condition is therefore met.

***(d) Shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;***

The Board finds that the proposed billboard location will be more than 10 feet from the right-of-way of Route 1, therefore meeting the setbacks normally associated with free standing signs. There will be no increase in coverage nor are any buffering requirements of Section 5-G applicable. The Board therefore finds that this condition is met.

***(e) Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;***

The Board finds that billboards are not generally known to be associated with fire, explosion, emission of waste or other similar incidents and that this conditions is therefore met.

***(f) Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;***

The Board finds that billboards are not normally associated with noise, vibration, dust, heat, smoke, fumes, odor or other nuisance or serious hazard so as to adversely affect the immediate neighborhood. The Board further finds that the conditions regarding illumination limitations of the digital board faces will prevent glare conditions from adversely affecting the immediate neighborhood. As such, the Board finds that this criterion is met.

***(g) Shall not adversely effect the character of the immediate neighborhood; and***

The Board finds the billboard already exists and that the relocation, reconstruction and conversion to digital will not adversely affect the character of the immediate neighborhood, which is commercially zoned. The relocation further away from the nearby residential apartments will be an improvement. The Board therefore finds that this criterion is met.

***(h) Shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.***

The Board finds that the proposed alteration of a non-conforming sign is consistent with the requirements of Section 9-3 and that this condition is therefore met.

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**Consistency: This decision is consistent with purpose and intent of the Zoning By-laws.**

**The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.**

\* \* \* \* \*

Said Special Permit is granted pursuant to Massachusetts General Laws c. 40A, s.9 which provides in pertinent part as follows:

*"...special permits granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."*

Massachusetts General Laws c. 40A, s. 11. provides in pertinent part as follows:

*"A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."*

**MASSACHUSETTS GENERAL LAWS c. 40A, s. 15 PROVIDES THAT APPEALS FROM A DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO SECTION 17 OF c 40A AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.**

WALPOLE ZONING BOARD OF APPEALS

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Craig W. Hiltz, Clerk

CWH/k:16-31

cc:    Town Clerk                      Engineering                      Planning Board  
       Board of Selectmen           Building Inspector       Conservation Commission

This decision was made on October 26, 2016 and filed with the Town Clerk on November 8, 2016.